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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,194	12/07/2000	Kenneth R. Whight	PHB 34, 433	9478
24737	7590	08/25/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			ZHENG, EVA Y	
P.O. BOX 3001			ART UNIT	
BRIARCLIFF MANOR, NY 10510			PAPER NUMBER	
			2634	
DATE MAILED: 08/25/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/732,194

Applicant(s)

WHIGHT, KENNETH R.

Examiner

Eva Yi Zheng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-22 is/are allowed.
- 6) ☒ Claim(s) 11 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/1/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. The objection to Specification has been withdrawn because of the amendment.
2. The objection to Drawings has been withdrawn because of the amendment.
3. Applicant's arguments filed on June 1, 2004, have been fully considered but they are not persuasive. The Examiner has thoroughly reviewed Applicant's arguments but firmly believes that the cited reference reasonably and properly meet the claimed limitation as rejected.
  - a. Applicant's argument – "Sakoda teaches spread code C11 as the first PN-code sequence....., and failed to teach the second PN-code sequence as recited in independent claims 1, 2, 7 and 8 in view of the fact that scrambling code C12 is not a spread code."

Examiner's response – Sakoda discloses a long code C12, which is supplied from a long-code generating section 47 (Fig. 6, Col 9, L48-50). It is well known that long code is spread code in CDMA technology.

- b. Applicant's argument – "Sakoda fails to teach a single spread code of a particular spreading ratio as being multiplied to two different signals having the same bit rate as required by independent claims."

Examiner's response – Applicant is reminded that the Examiner is entitled to give the broadest reasonable interpretation to the language of claims. Sakoda discloses a first spread-code generation section (45 in Fig. 6) multiplying symbol 40 to produce a

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higher bit rate symbol S44, which is equal to S43 (Col 9, L 8-55). Sakoda meets all the limitations in the original claims 1, 2, 7 and 8.

4. Applicant's arguments, see page 16, "checking of correlation peaks", filed on June 1, 2004, have been fully considered and are persuasive. The rejection to claims 2, 7 and 8 has been withdrawn.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 11 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakoda et al. (US 6, 519, 292 B1).

a) Regarding claim 11, Sakoda discloses a method of transmitting a spread spectrum signal, the method comprising:

using a first PN-code sequence (47 in Fig. 6) to spread one of a lower bit rate product (S43) or a higher bit rate signal to a predetermined output chip rate for the spread spectrum signal; and

multiplying a lower bit rate signal (S40) and a second PN-code sequence (45) to yield the lower bit rate product, wherein the lower bit rate product (S43) has a chip rate equal to a bit rate of the higher bit rate signal (S44) (Col 9, L 8-55).

b) Regarding claim 23, Sakoda discloses a spread spectrum transmitter for transmitting a spread spectrum signal, the transmitter comprising:

a source of a higher bit rate signal having a higher bit rate( 47 in Fig. 6);

a source of a lower bit rate signal having a lower bit rate (45 in Fig. 6);

means for multiplying the higher bit rate signal by a first PN-code sequence to give the spread spectrum signal a predetermined output chip rate (46); and

means for multiplying the lower bit rate signal (S40) by the first PN-code sequence (45) and a second PN-code sequence (S44) to give the spread spectrum signal the predetermined output chip rate, wherein a lower bit rate product of the lower bit rate signal (S43) and the second PN-code sequence has a chip rate equal to the higher bit rate of the higher bit rate signal (S44)(Col 9, L 8-55).

### ***Allowable Subject Matter***

7. Claims 12-22 are allowed.

8. The following is an examiner's statement of reasons for allowance:

None of the prior art teaches or suggests checking strong correction peak in an output of the first operation and an absence of a correlation peak in an output of the second operation. In addition, check a weak correlation peak in the output of the first operation and a second strong correlation peak in the output of the second operation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eva Yi Zheng whose telephone number is 703-305-8699. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 703-305-4714. The fax phone number for the organization where this application or proceeding is assigned is 703-879-9306.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Eva Yi Zheng  
Examiner  
Art Unit 2634

August 16, 2004

  
**SHUWANG LIU**  
**PRIMARY EXAMINER**